



April 9, 2026

**Re: Immediate Action Necessary following Colorado Supreme Court Decision *In re People v. Camp* and *In re People v. Simons***

Dear Municipal Councils<sup>1</sup>,

We write to ensure you are aware of and taking swift action to comply with a recent Colorado Supreme Court ruling which impacts almost all Colorado municipalities with sentencing schemes that include jail time.

**Summary.**

On December 22, 2025, in *In re People v. Camp* and *In re People v. Simons*<sup>2</sup> (*Camp & Simons*) the Colorado Supreme Court held municipal sentencing schemes that provide for harsher punishments than state offenses are preempted by [SB21-271](#), the state law setting the current misdemeanor sentencing scheme. This holding renders illegal and unenforceable the criminal general penalty provisions in almost all Colorado municipal codes that containailable offenses.

Municipal councils must immediately move to bring their municipal codes into compliance with this decision and to address any current, future, and past harms caused by illegal prosecutions under the municipal code, to include at least the following:

1. **Fast track an update of the general penalty.** Update the municipality's criminal code to create sentencing tiers in compliance with *Camp & Simons*.
2. **Identify and cure illegal sentences.** Direct the city attorney's office to identify and notify all municipal defendants who are currently serving, who may be subject to, and/or who have already served an illegal sentence and attempt to cure.
3. **Full code review.** Perform a full municipal code review and make adjustments to ensure full compliance with *Camp & Simons*.

Failure to move quickly poses risks to the public and municipalities.

- Failure to mitigate harm caused by illegal municipal prosecutions leaves municipalities open to a flood of criminal appeals and the possibility of civil lawsuits.
- Continuing to sentence people under an illegal sentencing scheme raises serious due process concerns, particularly related to public notice of penalties.
- Only municipal councils can correct the municipal code—municipal judges, defenders, city attorneys, victims, and defendants need certainty and clear sentencing guidelines.

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<sup>1</sup> We endeavored to distribute this letter to all members of the addressed municipal councils. Any omissions are unintentional, and we request your assistance in ensuring this letter reaches all members of your council.

<sup>2</sup> [In re. People v. Camp and In re. People v. Simons, 2025 CO 64](#)

**Details on Required Municipal Actions.**

**1. Fast track an update of the general penalty.**

General penalty provisions are unconstitutional and unenforceable under *Camp & Simons*. To comply with *Camp & Simons*, municipalities must remove jail as a penalty and/or create a tiered sentencing structure that, at minimum, tracks the state misdemeanor sentencing scheme.

<i>State Offense Classification</i>	<i>Maximum Penalty</i>	<i>C.R.S. pursuant to SB21-271</i>
Class 1 Misdemeanor	364 days and/or \$1,000 fine	18-1.3-501(1)(a.5)
Class 2 Misdemeanor	120 days and/or \$750 fine	
Petty Offense	10 days and/or \$300 fine	18-1.3-503(1.5)
Civil Infraction	No jail, \$100 fine	18-1.3-503 (1.6)(a)

An example of a tiered sentencing structure that complies with *Camp & Simons* is:

- Class 1 Offense: Any offense that prohibits the same conduct as a class 1 misdemeanor under state law - Up to \$1,000 fine/364 days imprisonment or both.
- Class 2 Offense: Any offense that prohibits the same conduct as a class 2 misdemeanor under state law - Up to \$750 fine/120 days imprisonment or both.
- Class 3 Offense: Any offense that prohibits the same conduct as a petty offense under state law - Up to \$300 fine/10 days imprisonment or both.
- Class 4 Offense: Any offense that prohibits the same conduct as a civil infraction under state law - Up to \$100 fine.

**Municipal offenses with no explicit state corollary.** Municipalities are also advised to prohibit or limit jail for offenses that criminalize the same conduct as state law, even when those offenses do not have an explicit state corollary. *Camp & Simons* prohibit municipalities from imposing harsher penalties for the same conduct as criminalized under state law. That analysis straightforwardly applies to all municipal offenses with an explicit state corollary and applies to municipal prosecutions of offenses with no explicit state corollary when the prosecution is for the same conduct as is prohibited under state law. For example, a municipal camping ordinance based on the same conduct that is prohibited under the state petty trespass statute may only carry a sentence up to the 10-day state petty trespass cap. The most straightforward way for municipalities to avoid violations of *Camp & Simons*, reduce costly criminal appeals, and avoid due process violations is to prohibit jail for municipal offenses or set municipal-only penalties at the 10-day cap currently in place for state petty offenses.

**Options for municipal offenses with no explicit state corollary:**

- Civil Infraction - No explicit state corollary: Any section of this Code for which there

is no counterpart state criminal statute shall be a civil matter with a maximum fine of \$2650.

- Class 3 Offense - No explicit state corollary: Up to \$300 fine/10 days imprisonment or both).

**2. Direct the city attorney's office to identify and attempt to cure all illegal sentences.** The *Camp & Simons* decision put all municipalities on notice that since March 1, 2022, when Colorado passed legislation setting new misdemeanor sentencing caps, their court may have imposed illegal sentences. Municipalities have a legal and ethical obligation to mitigate the damage perpetrated by an illegal penalty scheme. Adequate mitigation includes promptly identifying existing illegal sentences, notifying the defendant and defense counsel of the illegal nature of their sentences, and attempting to cure them. The city attorney's offices are best positioned to identify and attempt to cure potentially illegal sentences, and municipal councils should direct them to do so quickly. Over the lifetime of cases prosecuted under the illegal sentencing code, the lack of clarity for the defendant and their attorney means that the most straightforward remedy is dismissal.

- **Defendants currently incarcerated.** Immediately identify any people currently serving a municipal jail sentence that may be illegal, notify the defendant and defense counsel of the possible illegal sentence, release defendants from municipal custody, and take any other appropriate action.
- **Defendants facing suspended sentence, probation revocation.** Identify all individuals facing a suspended or probationary sentence that may be illegal, notify defense counsel and the defendant of the possible illegal sentence, and correct the sentence. Prolonging these corrections could cause collateral impacts, (i.e., delay in the ability to seal a conviction).
- **Defendants who have served an illegal sentence.** Municipal councils should direct municipal courts— who have the authority to correct illegal sentences without any motion by the parties— to review all convictions entered on or after March 1, 2022, and identify all illegal sentences. Parties should be notified of the illegal sentence immediately, and municipal courts should move promptly to cure the illegal sentence.

**3. Complete municipal code review.**

Municipal councils should direct city attorney's offices to work with appointed indigent defense counsel to bring proposals for code reform with the goal of full compliance with *Camp & Simons*.

Many municipal codes have never been subject to meaningful, comprehensive review. The state of Colorado completed such a review of misdemeanor crimes and passed a tiered sentencing structure so that the level of punishment relates to the perceived gravity of the crime. It is now incumbent upon municipalities to do the same. Most municipalities have adopted a general penalty provision, so penalties are not reflective of the wide variety of prohibited conduct, the gravity of each offense, or community values.

We are aware that some municipalities have recently adopted a provision in their code that does not strike the general penalty but instead leaves the general penalty in place, while noting that when there is a state statute prohibiting identical conduct, the municipal penalty is capped at the state penalty. This restatement of *Camp & Simons* is not incorrect, but it is not sufficient to give actual notice to ordinary people of the potential penalty they may be subjected to for violations of the municipal code. Common sense demands a clearer statement of the law than these kinds of restatements; ordinary people do not cross reference statutes.

### **Legal Concerns if Municipal Councils Fail to Act.**

Failure to take these actions raises serious legal concerns for municipalities. Each day someone serves an unauthorized sentence or takes a guilty plea under the coercive power of an illegal municipal sentencing scheme municipalities accrue more risk that their convictions are unsound and the accompanying risk of civil liability.

Beyond the human costs of unconstitutional convictions, to illegally incarcerated defendants and to victims who must endure time-consuming appeals, postconviction appeals can be extraordinarily costly to the prosecuting entity. More time spent litigating in state courts, where all direct appeals and most postconviction cases will be brought, results in more municipal prosecution costs, whether additional contract cases, additional contract hours, or the need for more staff. Specialist postconviction cases, including state habeas corpus actions, run a particularly high risk of imposing serious costs, due to their complex procedural postures and tight deadlines. Municipalities must often hire expensive external counsel to represent them in such actions. Additionally, depending on the result of direct appeals and postconviction actions, municipalities may be exposed to civil liability for violations of a (former) defendant's constitutional rights. All these costs can be prevented or mitigated through swift and proactive actions.

Municipal prosecutors, like all prosecutors, have specific ethical obligations to the public and the court. The Colorado Rules of Professional Conduct create these obligations, one of which is to act as a "minister of justice," rather than exclusively as an advocate. **Municipal prosecutors who find themselves working in municipalities with illegal sentencing schemes have critical obligations in their role as a minister of justice.** Prosecutors have a heightened duty of candor to the court and must affirmatively correct any misstatements of law they previously made to avoid misleading the tribunal. Here, at minimum, that requires municipal prosecutors to immediately alert municipal courts of the changes to sentencing ranges in all pending matters. Additionally, prosecutors should

not defend convictions if they believe a miscarriage of justice associated with the conviction – such as an illegal sentence – has occurred. Municipal councils can and should assist their municipal prosecutors in complying with their ethical obligations by (1) bringing the municipal code prosecutors rely on into compliance with *Camp & Simons* and (2) explicitly instructing prosecutors to remedy, and not defend, illegal sentences.

**Continuing to prosecute cases under a plainly illegal code raises grave legal and ethical concerns and endangers residents throughout impacted municipalities.** Municipalities should act immediately and proactively: revise general penalty codes, correct illegal sentences, and seize the opportunity to do comprehensive code reform. We look forward to seeing all municipalities come into compliance with the Colorado Supreme Court’s rulings and are available to answer any questions.

Sincerely,



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